

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>TYREE MORRIS,</b>	:	<b>CIVIL ACTION</b>
<b>Petitioner,</b>		
	:	
		<b>NO. 22-248 (KSM)</b>
<b>SUPERINTENDENT SCI FRACKVILLE, et al.,</b>	:	
<b>Respondents.</b>		

**RESPONSE TO PETITIONER'S MOTION FOR STAY**

1. Tyree Morris is a Pennsylvania state prisoner currently serving a sentence of 25 to 50 years of incarceration for attempted murder and related offenses.

2. On January 19, 2022, Morris filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the constitutionality of his confinement. ECF No. 1.

3. On February 14, 2022, Morris filed a motion to stay his federal proceedings pending the resolution of his ongoing state court proceedings. ECF No. 3.

4. On April 7, 2022 this Court ordered Respondents to file a response to Morris's motion for a stay. ECF No. 8.

5. All of the claims in Morris's pending habeas petition appear procedurally defaulted as the Pennsylvania Superior Court affirmed the dismissal of his initial PCRA petition as untimely. *Commonwealth v. Morris*, 1043 EDA 2020 (Pa. Super. Apr. 7, 2021).

6. However, Morris recently filed a second PCRA petition seeking to have his post-conviction rights reinstated because his PCRA counsel filed his initial PCRA petition approximately thirty days late due to an error. Morris's new PCRA petition is currently pending.

7. Respondents believe that Morris's reinstatement petition is likely to be successful and that his claims will be fully exhausted on the merits in state court.

8. Because the claims in Morris's petition are pending in state court, and for good cause shown, Respondents do not oppose the granting of a stay in this matter. *See Rhines v. Weber*, 544 U.S. 269, 278 (2005) (approving the granting of stays when, among other reasons, the petitioner has good cause for a failure to properly exhaust and the petitioner has not engaged in dilatory tactics).

Respectfully submitted,

/s/ David Napiorski

DAVID J. NAPIORSKI  
Assistant District Attorney  
Federal Litigation Unit

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of May, 2022, the foregoing response was placed in the United States mail for service on the petitioner at the following address:

**SMART COMMUNICATIONS/PA DOC<sup>1</sup>  
TYREE MORRIS/QE-0161  
SCI – FRACKVILLE  
PO BOX 33028  
ST PETERSBURG, FL 33733**

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<sup>1</sup> The respondents are required by Pennsylvania Department of Corrections policy to mail this to the petitioner using the Smart Communications address. The applicable policy provides, "all incoming inmate mail (other than privileged) must be sent to the Department's contracted incoming inmate mail processor," which is Smart Communications. *See* Pa. DOC, DC-ADM 803, § 1(C)(1). Respondents' legal filings are not "privileged," because counsel for the respondents do not represent the petitioner or have any other relationship with the petitioner that would make their communications privileged. Therefore, the respondents are prohibited by the DOC's policy from mailing documents directly to the petitioner at the address of the prison where the petitioner is in custody.

/s/ David Napiorski

David J. Napiorski, Esquire  
Assistant District Attorney  
Federal Litigation Unit